

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARNELL McCREARY,

Petitioner,

No. 06-CV-11195-DT

vs.

Hon. Gerald E. Rosen

THOMAS BIRKETT,

Respondent.

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OPINION AND ORDER DENYING PETITIONER'S
"APPLICATION FOR LEAVE TO FILE MOTION OBJECTING TO
OPINION AND ORDER, FOR CERTIFICATE OF APPEALABILITY
AND FOR LEAVE TO APPEAL IN FORMA PAUPERIS"

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on March 14, 2007

PRESENT: Honorable Gerald E. Rosen
United States District Judge

On November 9, 2006, this Court entered an Opinion and Order denying Petitioner Carnell McCreary's Petition for a Writ of Habeas Corpus and dismissed this action with prejudice. The Court also on that same date determined that no Certificate of Appealability should issue and that Petitioner should not be granted leave to appeal *in forma papueris*. This matter is presently before the Court on Petitioner's November 27, 2006 "Application for Leave of Court to File Motion Objecting to the Opinion and Order Denying the Petition for Writ of Habeas Corpus & Motion for Certificate of Appealability

& for Leave to Appeal In Forma Pauperis” [Docket # 25] and Petitioner’s December 11, 2006 Supplement to the above Application [Docket # 26]. In correspondence to the Court dated February 7, 2007, Petitioner clarified that his November 27, 2006 Application should be construed as a motion for reconsideration.

The requirements for the granting of motions for reconsideration are set forth in Eastern District of Michigan Local Rule 7.1(h), which provides in relevant part:

Generally, and without restricting the discretion of the Court, motions for rehearing or reconsideration which merely present the same issues ruled upon by the Court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the Court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

L.R. 7.1(h)(3).

The Court has reviewed Petitioner’s Application for reconsideration in this case and finds that Petitioner has merely presented issues already ruled upon by the Court in its November 9, 2006 Opinion and Order either expressly or by reasonable implication, and he has not demonstrated a palpable defect by which the Court has been misled or that a different disposition of the case must result from a correction thereof. Petitioner’s objections essentially restate the arguments made in his brief in support of his habeas corpus petition which the Court has already considered and rejected. For these reasons,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Petitioner’s Application for reconsideration be, and hereby is, DENIED.

IT IS FURTHER ORDERED that, for the reasons stated in the Court’s November

9, 2006 Opinion and Order, Petitioner's Motion for a Certificate of Appealability and for Leave to Appeal *in Forma Pauperis* is DENIED.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: March 14, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 14, 2007, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager